

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RECEIVED

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PAUL POGUE and
PAUL POGUE, in his capacity
as owner of SURVEYORS' PARK

Plaintiff,

Vs.

TONY CHANDLER, in his
individual and official
capacity, **SANDY G.**

ROBINSON, a for-profit

Representative of INTERNATIONAL

PAPER COMPANY, DANNY CLARK, in

his individual and official

capacity, and A, B, & C who

are those people, partnerships,

associates, corporations or

agents who participated in the

actions made the basis of this

Complaint and who are

presently unknown to the

Plaintiff, but who will be

added as Defendants when

ascertained.

Defendants.

Civil Action No.

2:06-cv-148-MHT

Jury Demand

Plaintiff's Response to Sandy G. Robinson's Motion to Dismiss

I. Introduction as to Defendant, Sandy G. Robinson

Paul Pogue, in his individual capacity and in his capacity as owner of Surveyors Park, filed a lawsuit against Sandy G. Robinson, a for-profit representative of International Paper Company. On February 24, 2006, this Court issued a Summons and Complaint on Sandy G. Robinson.

Sandy G. Robinson's legal option to answer or otherwise respond to the Complaint was statutorily limited to March 16, 2006.

On April 4, 2006, Sandy G. Robinson filed with this Court a FRCP 12(b) (6) motion to dismiss with exhibit attached. By Court Order, Plaintiff is directed to respond to the motion to dismiss on or before April 17, 2006.

II. Concise Argument Addressing Sandy G. Robinson's
FRCP 12(b) (6) Motion

A.

Sandy G. Robinson, the moving party has not met her burden pursuant to the Federal Rules of Civil Procedure 12(b) (6). Sandy G. Robinson's 12(b) (6) motion ignores the plain language of the Plaintiff's Complaint. Her motion runs rampant with "conclusory allegations and unwarranted deductions of fact which are not admitted as true." Sandy G. Robinson's self serving conclusory allegations contradict the facts alleged in the Complaint.

Legal authority would be Chesser v. Sparks, 248 F.3d 1117, 1121 (11th Cir. 2001). Sandy G. Robinson seems to draw a conclusion or attention to the scope or reach of 42 U.S.C. Section 1981 and 42 U.S.C. Section 1983. In this federal district, it is well settled and common practice to recognize the case styled Busby v. City of Orlando, 93 F.2d

764, 771-72n. 6 (11th Cir. 1991) when analyzing claim(s) treatment involving 42 U.S.C Section 1981 and 42 U.S.C. Section 1983. See also, Jett v. Dallas Independent School District, 491 U.S. 701, 735 (1989) and Shows v. Morgan, 40 F. Supp. 1345 (M.D. Ala. 1999).

Sandy G. Robinson has failed to articulate sufficient grounds to successfully seek dismissal of the Complaint for failure to state a claim.

B.

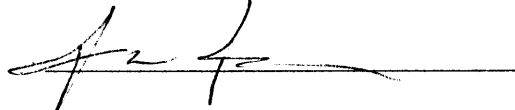
Sandy G. Robinson's exhibit, attached to her 12(b) (6) motion may be an attempt to raise contention or introduce evidence not contained in the pleading. The disclosed exhibit bears the authorship of Paul Pogue and to such degree of fact, the exhibit speaks for itself; moreover, the exhibit does not ready this case for FRCP 56 judgment nor FRCP 12 (b) (6) dismissal of Sandy G. Robinson from the Complaint.

C.

Sandy G. Robinson, the moving party in this case has not met her burden pursuant to the grace of FRCP 56 nor FRCP 12 (b) (6). See Celotex Corp. v. Cartrett, 477 U.S. 317, 322 (1986). Plaintiff on the other hand cites Anderson v. Liberty Lobby, 477 U.S. 242, 255 (1986).

Wherefore, Plaintiff ask that this Court apply the standards set forth in Conley v. Gibson, 355 U.S. 41 (1957) and Haines v. Kerner, 404 U.S. 519, 520 (1972) and deny Sandy G. Robinson's relief requested in her motion to dismiss with exhibit attached.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "P. Pogue", is written over a horizontal line.

PAUL POGUE and PAUL POGUE
FOR SURVEYORS' PARK
301 Kahn Street
The Mays Building
Montgomery, Alabama 36104
(334) 561-2240

Done this 17th day of April 2006.

Certificate Of Service

I hereby certify that I have served by U.S. Mail Ms. Sandy G. Robinson, and the attorney for Sandy G. Robinson with a true copy of the Response to Sandy G. Robinson's motion to dismiss with exhibit attached on the following persons and addresses to wit:

Honorable Sandy G. Robinson
63 South Royal Street, Suite 700
Mobile, Alabama 36602

Honorable Danny Clark
1349 County Road No. 61
Clanton, Alabama 35046

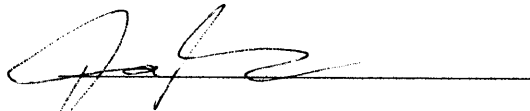
Honorable Tony Chandler
2584 Ridge Road
Brewton, Alabama 36426

Honorable Christopher Weller
P.O. Box 2069
Montgomery, Alabama 36102

Honorable Charles T. Conway
P.O. Box 302550
Montgomery, Alabama 36130

Done this 17th day of April 2006.

Respectfully Submitted,



Paul Pogue